May 2, 2022

KAREN MITCHELL

CLERK, U.S. DISTRICT

COURT

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

U.S. NAVY SEALS 1-26, U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5, U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL)))
DISPOSAL TECHNICIAN, U.S. NAVY DIVERS 1-3)
Plaintiffs,)
V.) Civil Action No 4:21-cv-01236-O
JOSEPH R. BIDEN, in his official capacity as President of the United States of America, LLOYD AUSTIN, SECRETARY, U.S. DEPARTMENT OF DEFENSE, individually and in his official capacity as United States Secretary of Defense, UNITED STATES DEPARTMENT OF DEFENSE, CARLOS DEL TORO, individually and in his official capacity as UNITED STATES SECRETARY OF THE NAVY)))))))))))))))
Defendants)
)
)

REQUEST FOR LEAVE TO INTERVENE

1. And, comes now to the Court Major Mike Webb, a litigant and *pro se* advocate in *Webb v. Fauci*, Civil Action No. 3:2021-cv-00432 (E.D.Va. 2021), *on appeal* Record No. 21-2394 (4th Cir. 2021); *see also Webb v. Fauci*, Record No. 21-6868 (U.S. 2022), arising from, *inter alia* a claim brought under the *Freedom of Information Act (FOIA)*, 5 U.S.C. § 552, regarding the classification of the infectious dose and/or secondary attack rate, standard epidemiological metrics, for COVID-19, with credible evidence that the biological causative agent, SARS-CoV-2, had not been zoonotically evolved, as repeatedly alleged by the President's top medical adviser, Anthony Fauci, *see* Jerry Dunleavy, "Fauci says he still

thinks nature, not Wuhan lab, 'most likely' origin for COVID-19," *Washington Examiner*,

July 17, 2021; *see also* Cecelia Smith-Schoenwalder, "Biden: Intelligence Community Must
'Redouble' Efforts to Find Coronavirus Origin," *U.S. News & World Report*, May 26, 2021,
but rather is a biological agent in which the U.S. government holds a proprietary interest,
and, by operation of law, would have to have been cultivated in a laboratory. *See Association*for Molecular Pathology v. Myriad Genetics, Docket No. 12-398, 566 U.S. ____ (2013);

Diamond v. Chakrabarty, 447 U. S. 303 (1980).

Conditions for Grant of Leave to Intervene

- 2. Pursuant to Fed.R.Civ.Pro. 24(a), "[o]n timely motion, the court *must permit* anyone to intervene who: (1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest. (emphasis added)
- 3. Pursuant to Fed.R.Civ.Pro. 24(b), "[o]n timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.

 (emphasis added)
- 4. Pursuant to Fed.R.Civ.Pro. 24(b)(3), "[i]n exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights."
- 5. "The Court must consider three factors to determine whether an application to intervene is timely: (1) the stage of the proceedings; (2) the reason for any delay in moving to intervene;

- and (3) whether the parties would be prejudiced." *ABM Indus. Inc.*, 249 F.R.D., at 588 (citing *Northwest Forest Resource Council v. Glickman*, 82 F.3d 825 (9th Cir.1996)).
- 6. Furthermore, "[a] motion to intervene must be served on the parties as provided in Rule 5" and "[t]he motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought." Fed.R.Civ.Pro. 24(c).

Expert Testimony Qualification

- 7. In a recent application for a partial stay that had been presented to Justice Samuel Alito and referred to the full U.S. Supreme Court, Justice Brett Kavanaugh had concluded:
 - I concur in the Court's decision to grant the Government's application for a partial stay of the District Court's preliminary injunction for a simple overarching reason: Under Article II of the Constitution, the President of the United States, not any federal judge, is the Commander in Chief of the Armed Forces. In light of that bedrock constitutional principle, "courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs." Department of Navy v. Egan, 484 U.S. 518, 530 (1988). As the Court has long emphasized, moreover, the "complex, subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments." Gilligan v. Morgan, 413 U. S. 1, 10 (1973). Therefore, it is "difficult to conceive of an area of governmental activity in which the courts have less competence." Ibid. Austin v. U.S. Navy SEALs 1-26, Record No. 21A-477 (U.S., March 25, 2022).
- 8. However, under Fed.R.Evid. 702, "[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

 (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
 (b) the testimony is based on sufficient facts or data;
 (c) the testimony is the product of reliable principles and methods;
 and (d) the expert has reliably applied the principles and methods to the facts of the case."
 (emphasis added)
- 9. In a seminal case on vaccinations, this nation's highest court stated, regarding that an appellant, whose "views could not affect the validity of the statute, nor entitle him to be

excepted from its provisions", 2 25 S. Ct. 358, 49 L. Ed. 643 (1905) (citing *Commonwealth v. Connelly*, 163 Massachusetts 539; *Commonwealth v. Has*, 122 Massachusetts 40; *Reynolds v. United States*, 98 U.S. 145; *Regina v. Downes*, 13 Cox C.C. 111.), that "[t]he only 'competent evidence' that could be presented to the court to prove these propositions was the testimony of experts, giving their opinions." *Id.* (quoting *Commonwealth v. Jacobson*, 183 Massachusetts 242 (1904). *See also* Fed.R.Evid. 701¹.

- 10. Under the Fed.R.Evid. 901(a), "[t]o satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is", and, in accordance with Fed.R.Evid. 901(b)(1), examples may include "[t]estimony that an item is what it is claimed to be".
- 11. And, under Fed.R.Evid. 703, "[a]n expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed", and, "[i]f experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted", "[b]ut if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect." (emphasis added)
- 12. Historically, even in one landmark case on the issue of civil rights, expert testimony was dispositive in gaining a favorable outcome for the appellee. Staff, "Kenneth and Mamie Clark Doll," NPS, February 10, 2021, Kenneth and Mamie Clark Doll Brown v. Board of

[&]quot;If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:
(a) rationally based on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702." *Id.*

- Education National Historic Site (U.S. National Park Service) (nps.gov) (accessed September 8, 2021).
- 13. Moreover, under Fed.R.Civ.Pro. 26(a)(2)(A), "[i]n addition to the disclosures required by Rule 26(a)(1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705." Pursuant to Fed.R.Civ.Pro. 26(a)(2)(B), "[u]nless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness", for which purpose the present application serves.
- 14. However, "[o]rdinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent)", Fed.R.Civ.Pro.26(b)(3)(A), and "[a] party must make the initial disclosures at or within 14 days after the parties' Rule 26(f) conference. . ." Fed.R.Civ.Pro.26(a)(1)(C).

Curriculum Vitae of Intervenor

- 15. Intervenor is the petitioner and *pro se* litigant in multiple litigations brough against the government response to the current public health crisis, to include:
 - a. Webb v. Northam, et al., Case Number CL20001624 (Alexandria Cir. 2020), on appeal Record Number 210536 (Va. 2021), on petition for certiorari, Record No. 21—

 (U.S. 2021) (first and longest surviving litigation against the lockdown orders in the Commonwealth of Virginia);
 - b. In Re: Major Mike Webb, Case Number CL21001829 (Alexandria Cir. 2021), on appeal Record No. TBD (Va. 2022) (petition for writ of mandamus to compel the Commonwealth Attorney to charge the Sheriff for failure to perfect service of process upon the Governor and Commonwealth Defendants);

- c. Webb v. Wilson, Case Number CL21001769 (Alexandria Cir. 2021), on appeal Webb v. Wilson, Record No. TBD (Va. 2021) (injunction action against PRIDE Month Proclamation, encouraging gay men to party during a public health crisis);
- d. Webb v. Northam, Civil Number Civil Action No. 3:20CV497 (E.D.Va. 2020), on appeal Webb v. Northam, Record Number 20-1968 (4th Cir. 2020), certiorari denied, Record No. 21-6170 (U.S. 2021) (first filed and longest surviving litigation brought against the nonmedical grade facial coverings mandates in the Commonwealth of Virginia);
- e. Webb v. Fauci, et al., Civil Action No. 3:21CV432 (E.D.Va. 2021), on appeal Record No. 21-2394 (4th Cir. 2021) (first action brought against the vaccines mandates in the Commonwealth of Virginia, and, in relevant part, an injunction action to compel the White House to respond to a request for information submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, regarding whether or not the infectious dose and secondary attack rate for SARS-CoV-2 is classified information); and
- f. Webb v. Fauci, Record No. 21-6868 (U.S. 2022) (application for prejudgment decision to enjoin the White House from withholding documents requested under the FOIA and to compel a summary judgment against Facebook, Inc. for violations of the Freedom of Access to Clinic Entrances (FACE) Act).
- 16. Intervenor is the most junior commissioned officer to have ever served as both the Aide de Camp to the Commander, as in evidence at Exhibit A, as well as the Operations Officer for all U.S. Army counterintelligence in the Continental United States (CONUS), as in evidence at Exhibit B.

- 17. And, in these capacities, Intervenor had the unique opportunity to serve in a critical staff role during the formation of the Armed Forces Medical Intelligence Center (AFMIC), see generally DODD 6420.1, Armed Forces Medical Intelligence Center (AFMIC), September 30, 1996, the precursor to the National Medical Intelligence Center (NMIC), see generally DODI 6420.01, National Center for Medical Intelligence (NCMI), March 20, 2009, incorporating Change 3, effective September 8, 2020, which was the subject of the ABC News report, Josh Margolin & James Gordon Meek, "Intelligence report warned of coronavirus crisis as early as November: Sources 'Analysts concluded it could be a cataclysmic event,' a source said," ABC News, April 8, 2020.
- 18. In addition, Intervenor served as a Company Commander in the U.S. Army Reserve, in which capacity, during Annual Training, he had the responsibility for proper instruction of initial entry for training (IET) soldiers on topics to include proper tactics, techniques and procedures for conduct of operations in environments contaminated by biological agents, and was responsible during monthly unit training assemblies (UTAs) for conducting sustainment training for drill instructors and other soldiers assigned to that training unit, as in evidence at Exhibit C.
- 19. Intervenor further has been certified as an instructor in a train-the-trainer (T3) course for composite risk management (CRM), in accordance with DA Pam 385-30 Safety: Risk Management, Para 1-8, December 2, 2014.
- 20. In addition, Intervenor has been creditable experience as a *FOIA* analyst, having performed such other duties as assigned, while serving in both the capacities of *Aide de Camp* and Operations Officer, as well as while serving as the Adjutant/S1 for a basic training unit, while in the U.S. Army Reserve, as in evidence at Exhibit **D**, as well as in employment as a

- FOIA analyst with Immigration and Customs Enforcement (ICE), and as a government contractor, serving as the Acting FOIA Supervisor with Axiom Corporation of Atlanta, a contracted agent for the Centers for Disease Control & Prevention (CDC).
- 21. Intervenor has provided paralegal support to intellectual property cases specifically involving pharmaceutical products with premier law firms, to include: Fitzpatrick, Cella, Harper & Scinto, Whitman, Breed, Abbott & Morgan, LLC, Dilworth Paxson LLP, Blank Rome LLP and Reed Smith LLP.
- 22. Intervenor has never authored any publications, nor testified as an expert, and is not being compensated.

Stage of the Proceedings

- 23. On March 25, 2022, on application for relief from a partial stay, the Supreme Court had, with a verbal indication that Justice Clarence Thomas would have denied the application, Justice Kavanaugh concurred "in the Court's decision to grant the Government's application for a partial stay of the District Court's preliminary injunction." *U.S. Navy SEALs 1-26*, Record No. 21A-477.
- 24. The action, *U.S. Navy SEALs 1-26 v. Biden*, 4:21-cv-01236 (N.D. Tx. 2021) was commenced on November 9, 2021, followed by a Motion for Preliminary Injunctive Relief on November 24, 2021, prompting a Motion for Stay filed by Defendants, with Preliminary Injunctive Relief granted by the District Court on January 3, 2022, prompting a Motion to Dismiss, filed by Austin, on January 14, 2022, as well as a Notice for Interlocutory Appeal filed on January 21, 2022, and a Notice of Appeal on February 22, 2022.
- **25.** An Amended Complaint was filed on January 24, 2022, followed by a Motion for Class Certification on January 25, 2022.

- **26.** On February 7, 2022, a Motion for Injunction Classwide Preliminary Injunction was filed with the District Court, while Defendants filed a Motion to Dismiss for Lack of Jurisdiction.
- 27. On March 28, 2022, an order was entered granting, in part, the Motion for Class Certification and granting, in part, the Motion for Injunctive Relief.
- **28.** On January 21, 2022, Defendants' interlocutory was filed with the Fifth Circuit Court of Appeal, in the matter, *U.S. Navy SEALs 1-26 v. Biden*, No. 22-10077 (5th Cir. 2022).
- **29.** On February 28, 2022, the Fifth Circuit entered an order denying Motion for Stay Pending Appeal.

Reason for Any Delay in Moving to Intervene

30. On March 5, 2021, the White House announced that "we've recovered from a storm, kept vaccination sites open late, packed and shipped vaccines throughout the night, seen companies across America make major commitments to masking and vaccinations and to underserved communities", that "we went from a J&J authorization to shots in arms in three days[,]... topped off by an announcement from two rival drug companies, Johnson & Johnson and Merck, of an unprecedented collaboration to increase our vaccination capacity along with the U.S. government", that "[w]e have increased vaccine supply to states, tribes, and territories by more than 77 percent, launched programs to get vaccines into thousands of additional convenient and trusted locations, like pharmacies, community vaccination centers, and community health centers" and that "there are thousands of Americans — from our military servicemen and women, to retired doctors and nurses, to members of the National Guard — all vaccinating Americans across the country." Briefing Room, "Press Briefing by White House COVID-19 Response Team and Public Health Officials," White House, March 5, 2021.

31. At a time during the public health crisis when it was reported that the "CDC's most recent data shows cases continue to fluctuate around 60,000 to 70,000 cases per day, with the most recent seven-day average of 62,000 cases per day", with "deaths hovering around 2,000 deaths per day with the latest seven-day average of 1,900 deaths per day", the White House took great pride in the fact reported that:

Six weeks ago, only 8 percent of seniors — those most vulnerable to COVID — had received a vaccination. Today, nearly 55 percent of people age 65 or older have received at least one shot. Altogether, we've administered more than 82 million shots — more than any country in the world. And we've opened or expanded more than 450 community vaccination sites. *Id.*

- 32. By March 7, 2021, the day upon which a joint project between Boston University and The Atlantic had discontinued collecting data, a total of 515,151 American fatalities, confirmed and probable, had been attributed to COVID-19. The COVID Tracking Project, "National Data: Deaths," COVID Tracking Project, March 7, 2021,

 https://covidtracking.com/data/national/deaths (accessed March 31, 2022).
- 33. Days later, marking the anniversary of the declaration of a pandemic, the President, indicating that Americans wanted to hear the truth, announced his American Rescue Plan, stating:

I know it's been hard. I truly know. As I've told you before, I carry a card in my pocket with the number of Americans who have died from COVID to date. It's on the back of my schedule. As of now, total deaths in America, 527,726. That's more deaths than in World War I, World War II, the Vietnam War and 9/11 combined. ABC News, "Transcript: Joe Biden delivers remarks on 1-year anniversary of pandemic," *ABC News*, March 11, 2021.

34. "'Information' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is *owned by, produced by or for, or is under the control of the United States Government.*" Part I, Section 1.1(b), Executive Order 12,958, Classified National Security Information, April 17, 1995. (emphasis added)

- 35. "'Information' means may information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government." Section 6.1(b), Executive Order No. 12,356, National Security Information, April 2, 1982. (emphasis added)
- 36. If this information is owned by, produced by or for, or is under the control of the United States government, despite reports to the contrary, by simple operation of law, as a product not of nature, it would, of necessity, have to have been cultivated in a laboratory. *Association for Molecular Pathology v. Myriad Genetics*, Docket No. 12-398, 566 U.S. ____ (2013); *Diamond v. Chakrabarty*, 447 U. S. 303 (1980).
- 37. On March 23, 2021, as in evidence at Exhibit E, the Intervenor had presented a request for information, under the authority of the *FOIA* to request any and all documents pertaining to whether the secondary attack rate and/or the infectious dose for COVID-19, standard epidemiological metrics of risk, were classified information, a request acknowledged as received by the White House on that very same day, as in evidence at Exhibit F.
- **38.** Celebrating his first 100 days after Joe Biden had assumed the office of the Presidency, the White House took credit for "consistently vaccinating 2.5 million Americans per day", "200 million shots in the first 100 days," and had identified the most vulnerable populations thusly:
 - As of today, 71 percent of individuals 65 and over have received at least one shot. That's important because seniors sadly account for 80 percent of COVID deaths. Overall, more than 1 in 3 adults have had at least one dose, and more than 47 million adult Americans are now fully vaccinated. Briefing Room, "Press Briefing by White House COVID-19 Response Team and Public Health Officials," *White House*, March 26, 2021.
- **39.** After the tolling of the deadline for a response to the *FOIA* request, with urgency, to task the Intelligence Community to redouble efforts one month after the deadline had tolled for a

- response. *See* Kate Sullivan, Donald Judd and Phil Mattingly, Biden tasks intelligence community to report on Covid origins in 90 days, *CNN*, May 27, 2021.
- **40.** It is generally acknowledged that *Reid v. Merit Systems Protection Board*, 508 F.3d 674 (Fed. Cir. 2007) articulates a timing/knowledge test to determine whether conduct is retaliatory, and the complainant need only demonstrate that "the deciding official knew of the [protected activity]. . . and that the adverse action was initiated within a reasonable time² of [the same]".
- 41. Under the timing/knowledge test, a complainant "need not demonstrate the existence of a retaliatory motive. . . to establish that [the protected activity]. . . was a contributing factor", *Kewley v. HHS*, 153 F.3d 1357 (Fed. Cir. 1998) (quoting *Marano v. DoJ*, 2 F.3d 1137(Fed. Cir. 1993)), and "[o]nce the knowledge/timing test has been met, an administrative judge must find that the appellant has shown that. . . [the protected activity] was a contributing factor. . . , even if, after a complete analysis of all of the evidence, a reasonable factfinder could not conclude that the appellant's [protected activity]. . . was a contributing factor". *Schnell v. Department of the Army*, 114 M.S.P.R. 83 (2010).
- 42. Defendants had brought a complaint, like the Intervenor, who had initially filed his case on July 7, 2021, including claims under the *Religious Freedom Restoration Act*, Pub. L. No. 103-141, 107 Stat. 1488, codified at 42 U.S.C. § 2000bb, which Congress had enacted to: "(1) to restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application *in all cases where free exercise of religion is substantially burdened*; and (2) to *provide a claim or*

² See Inman v. Department of Veterans Affairs, 112 M.S.P.R. 280 (2009) (a reasonable time of 15 months); Redschlag v. Department of the Army, 89 M.S.P.R. 589 (2001) (a reasonable time of 18 months); Russell v. DoJ, 76 M.S.P.R. 317 (1997) (a reasonable time of 7 months); Easterbrook v. DoJ, 85 M.S.P.R. 60 (2000) (a reasonable time of 7 months).

- defense to persons whose religious exercise is substantially burdened by government." (emphasis added)
- 43. Piercing the veil of judicial immunity, being act ministerial and not judicial in nature, in derogation of a substantive right to due process and equal protection, unlike in the case brought by Plaintiffs, where, by November 9, 2021, a summons was issued against all Defendants, to date, in the case brought by the Intervenor in the Eastern District of Virginia, no summons has yet been issued, raising a reasonable suspicion regarding violations of 18 U.S.C. § 1512, for conspiracy to evade a summons.
- **44.** Similarly, piercing the veil of judicial immunity, being act ministerial and not judicial in nature, in derogation of a substantive right to due process and equal protection, unlike in the case brought by Plaintiffs, where a hearing was docketed for argument regarding injunctive relief, in the matter brought by the Intervenor, the Trial Court had refused to docket a hearing under the pretext that the Respondents in his case had not been served.
- 45. Under 5 U.S.C. § 552(a)(6)(C)(i), "[a]ny person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection *shall be deemed to have exhausted his administrative remedies* with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph", and "[o]n complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant", 5 U.S.C. § 552(a)(4)(B); so, the Court, *sua sponte*, at all times possessed the authority, at its discretion,

- to grant injunctive relief, which never occurred, again piercing the veil of judicial immunity, in derogation of a substantive right to due process and equal protection.
- 46. Moreover, on October 29, 2021, it was reported that "[t]he US intelligence community released a declassified report. . . that confirmed that it has not reached a conclusion on the origins of Covid-19, though it offered fresh details on how the intelligence community approached its 90-day investigation into the matter", Katie Bo Lillis, "US Intelligence community releases full declassified report that does not determine origin of Covid-19," *CNN*, October 29, 2021, the very same day that the Trial Court had issued an order dismissing the action, for dubious reasons, an order that has yet to have been delivered to the Intervenor in the mail.
- 47. After discovering the dismissal action during a visit to the Court to redouble efforts to have a summons issued by the Trial Court, the Intervenor promptly, filed a notice of appeal, filed an appeal of the dismissal with the Fourth Circuit and filed an application for prejudgment injunctive relief on the *FOIA* claim with the Supreme Court, the last action of which was denied certiorari on March 7, 2022, with Justice Samuel Alito abstaining from participation, while the appeal filed with the Fourth Circuit has languished since its filing in December, even without any responsive replies from the Appellee parties.
- 48. "Globally, as of 5:04pm CEST, 30 March 2022, there have been 483,556,595 confirmed cases of COVID-19, including 6,132,461 deaths, reported to WHO", Staff, "WHO Coronavirus (COVID-19) Dashboard," *WHO*, https://covid19.who.int/ (accessed March 31, 2022), and on March 8, 2021, the Intervenor filed a formal complaint, alleging crimes against humanity and genocide, with the International Criminal Court, as in evidence at Exhibit G.

- But see Matthew Lee, "US formally declares Russian troops have committed war crimes in Ukraine," Associated Press, March 23, 2022.
- 49. To date, 976,229 American deaths have been attributed to a biological agent that, beyond a reasonable doubt, is the property of the Government, while 81.8% of Americans over the age of five have been administered at least one dose, based upon the misrepresentation of a material fact that these countermeasure products were designed to address a disease that had occurred in nature, false representations knowingly made, with intent to mislead, placing the American people in false reliance thereon, establishing a *prima facie* case of fraud.
- 50. It is clear that, under federal laws of the United States, pursuant to 18 U.S.C. § 1001(a),

Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

51. It is clear that, under the laws of the Commmonwealth,

A party alleging fraud must prove by clear and convincing evidence (1) a false representation, (2) of a material fact, (3) made intentionally and knowingly, (4) with intent to mislead, (5) reliance by the party misled, and (6) resulting damage to him. Winn v. Aleda Constr. Co., 227 Va. 304, 308, 315 S.E.2d 193, 195 (1984). Clear and convincing evidence is such proof as will establish in the trier of fact a firm belief or conviction concerning the allegations that must be established." Thompson v. Bacon, 245 Va. 107 (1993) (quoting Walker Agency, Inc. v. Lucas, 215 Va. 535 (1975).

52. And, it is clear, on the record, that public officials, elected and appointed had engaged in conduct of such character and had ample cause to evade a court that might hold them accountable for their actions, finding sufficient motive, means and opportunity. *Bowen v. Maynard*, 799 F.2d 593 (10th Cir.1986) ("Additionally, there was no evidence that "Slick," unlike Crowe, had motive, opportunity, and ability to kill the bartender.").

Prejudice to Parties

Military Law

- 53. "On October 17, 2006, the Uniform Code of Military Justice (UCMJ) was amended to extend UCMJ jurisdiction over persons serving with or accompanying U.S. armed forces in the field in times of declared war or a contingency operation (references (a) and (b))." Robert M. Gates, Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense and Commanders of Combatant Commands, "UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations," DOD, March 10, 2008.
- 54. Under military law, codified in the Uniform Code for Military Justice (UCMJ),
 - (A) Except as provided in subparagraph (B), a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection (b).
 - (B) Under regulations prescribed by the President, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required. 10 U.S.C. § 832(a)(1).
- 55. Pursuant to 10 U.S.C. § 832(a)(2),

The purpose of the preliminary hearing shall be limited to determining the following:

(A) Whether or not the specification alleges an offense under this chapter.

- (B) Whether or not there is probable cause to believe that the accused committed the offense charged.
- (C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense.
- (D) A recommendation as to the disposition that should be made of the case.

Transnational Terror

- 56. Under 18 U.S.C. § 2332b(d)(1), "[t]he prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment", and, in electing a right to remain silent, at least with regards to criminal conduct involving terrorism, "[a] person acts with the requisite knowledge if he is aware of (or willfully blinds himself to) a significant likelihood that his or her conduct will materially support the organization's terrorist ends", Holder v. Humanitarian Law Project, 561 U.S. 1 (2010), and, under Fed.R.Crim.Pro. 6(a), "[w]hen the public interest so requires, the court must order that one or more grand juries be summoned."
- 57. Under 18 U.S.C. § 2332b(a)(1)(A), "[w]hoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b). . . kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States. . . in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c)", which provides, in relevant part, that "[w]hoever violates this section shall be punished. . . for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life", 18 U.S.C. § 2332b(c)(1)(A).
- **58.** However, under 18 U.S.C. § 2332b(b)(1)(C), for jurisdictional purposes, "the victim, or intended victim, is the United States Government, *a member of the uniformed services*, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or

- of any department or agency, of the United States" (emphasis added), and, to date, a total of 94 uniformed service members have been fatalities to COVID-19. Staff, "Spotlight:

 Coronavirus: DoD Response," https://www.defense.gov/Spotlights/Coronavirus-DOD-
 Response/ (accessed March 30, 2022).
- 59. At least in the Sixth Circuit, where it was found that, where "the object crimes alleged... were part of a broader conspiracy 'intended to promote' enumerated crimes of terrorism", it has been held that "[t]he terrorism enhancement applies no matter which object crimes were assumed in the guilty verdict, so there is no need to determine beyond a reasonable doubt that...[a defendant or defendants] conspired to commit any one of the named object crimes in particular." *U.S. v. Graham*, 275 F.3d 490 (6th Cir. 2001). Similarly, the Seventh Circuit has held that, "[i]f the act is among the litany of crimes listed in § 2332b(g)(5)(B), which include a bevy of the most harmful and odious acts in the criminal code, including everything from murder and torture to the destruction of government property, and it was 'calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct,' then it is a federal crime of terrorism", *U.S. v. Christianson*, 586 F.3d 532 (7th Cir. 2009) (quoting 18 § 2332b(g)(5)(B)), "[a]nd for all intents and purposes at sentencing, that person is a terrorist. *Id*.

A Right to Be Heard

60. The Virginia State Attorney General has described in pleadings the current public health crisis as a "a once-in-a-century pandemic", characterized as "threaten[ing] irreparable harm to an unknown (and unknowable) number of people", and prompting the argument that "the scope of [a court's] review . . . must be limited to a determination of whether the [executive's] actions were taken in good faith and whether there is some factual basis for [the

- Governor's] decision that the restrictions he imposed were necessary to maintain order."

 Opp. Brief, *Hughes v. Northam*, Civil Action No. CL20-415 (Russell Cy. Cir.) (quoting *U.S. v. Chalk*, 441 F.2d 1277 (4th Cir. 1971).
- 61. The esteemed Attorney General, however, appears to suggest that such license is plenary, and eternal, and appears to omit the bounds upon that license even acknowledged by that precedential authority, which expressly articulated the condition that "[a]ll power may be abused if placed in unworthy hands", *id.* (quoting *Luther*, 48 U.S. (7 How.), at 1, and that "[t]he courts cannot prevent abuse of power, but can sometimes correct it". *Id*.
- **62.** Yet, while neither a practicing nor licensed, nor even formally trained, litigator, Intervenor is yet aware that "[t]he fundamental requisite of due process of law is the opportunity to be heard", *Grannis v. Ordean*, 234 U.S. 385 (1914), and that such should occur "at a meaningful time and in a meaningful manner", *Armstrong v. Manzo*, 380 U.S. 545 (1965).
- defined as "the process that is due under particular circumstances and does not invariably mandate trial-type proceedings", Sec'y of Labor v. T.P. Mining, Inc., 8 FMSHRC 687 (1986), which at least one case within the confines of his federal jurisdiction had described as a substantive right derogated in irreparable harm, Cohen v. Rosenstein, 691 F. App'x 728, (Mem)–730 (4th Cir. 2017), a material finding for a grant of injunctive relief upon infringement thereof, a legal cause of action even recognized, even if in dissent, by the Virginia State Attorney General. See Opp. Brief, Hughes v. Northam, supra. (quoting School Bd. of Richmond v. Wilder, 73 Va. Cir. 251 (City of Richmond Cir. Ct. 2007))³.

³ "[a] party seeking injunctive relief 'must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Id*.

Speedy Trial

- 64. It is clear that "courts must 'recognize that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or, for that matter, identify", *U.S. v. Knowles*, 390 F. App'x 915 (11th Cir. 2010) (quoting *Barker v. Wingo*, 407 U.S. 514 (1972)), and a defendant "cannot avoid a speedy trial by forcing the government to run the gauntlet of obtaining formal extradition and then complain about the delay that he has caused by refusing to return voluntarily to the United States", because "affirmative resistance of the government's efforts to secure his presence in the United States constitute an intentional relinquishment of his right to a constitutional speedy trial"; hence, precluding a right to then "complain of the delay that he himself caused". *U.S. v. Manning*, 56 F.3d 1188 (9th Cir.1995).
- 65. In the analysis of a denial of speedy trial, under the *Sixth Amendment*, "[t]he length of the delay is the starting point of the analysis, and it is not necessary to consider the other three factors if the delay is not presumptively prejudicial", and "[t]he length of delay is not presumptively prejudicial". *Bland v. Commonwealth*, No. 0937-16-1, 2017 WL 5318340, at *1–4 (Va. Ct. App. Nov. 14, 2017) (citing *Barker*, 407 U.S., at 514.). *But see Doggett v. U.S.*, 505 U.S. 647 (1992) ("Simply to trigger a speedy trial analysis, an accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from 'presumptively prejudicial' delay, 407 U.S., at 530–531, 92 S.Ct., at 2192, since, by definition, he cannot complain that the government has denied him a 'speedy' trial if it has, in fact, prosecuted his case with customary promptness.").
- **66.** In *U.S. v. Cain*, 671 F.3d 271 (2d Cir. 2012), the Court explained:
 - The Supreme Court's decision in *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972) sets forth the four factors that must be considered in analyzing

- whether a defendant's constitutional right to a speedy trial has been violated: (1) the length of the delay; (2) the reasons for the delay; (3) whether the defendant asserted his right in the run-up to the trial; and (4) whether the defendant was prejudiced by the failure to bring the case to trial more quickly. *See id.* at 530, 92 S.Ct. 2182; *see also United States v. Jones*, 129 F.3d 718, 724 (2d Cir.1997). These factors "must be considered together with such other circumstances as may be relevant," and "have no talismanic qualities." *Barker*, 407 U.S. at 533, 92 S.Ct. 2182. Rather, they require courts to "engage in a difficult and sensitive balancing process." *Id.*
- 67. It is well-established that "by definition, [a defendant] cannot complain that the government has denied him a 'speedy' trial if it has, in fact, prosecuted his case with customary promptness" *Doggett v. U.S.*, 505 U.S. 647 (1992), and while "a showing of prejudice is not a prerequisite to finding a [S]ixth [A]mendment violation, courts generally have been reluctant to find a speedy trial violation in the absence of genuine prejudice." U.S. v. Jones, Jones, 129 F.3d 718 (2d Cir.1997).

Unconditional Right by Statute

- **68.** Under the *FOIA*, as noted above, "Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph." 5 U.S.C. § 552(a)(6)(C)(i).
- 69. Moreover, pursuant to Fed.R.Civ.P. 24(a), "[o]n timely motion, the court must permit anyone to intervene who: (1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest", statutory substantive rights, in derogation of equal protection and due process, that have thus far been denied, an irreparable harm, see Cohen v. Rosenstein, 691 F. App'x 728,

- (Mem)–730 (4th Cir. 2017), entitled to injunctive relief. *School Bd. of Richmond v. Wilder*, 73 Va. Cir. 251 (City of Richmond Cir. Ct. 2007).
- 70. Additionally, in accordance with Fed.R.Civ.Pro. 24(b)(1), "[o]n timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact."

Claim that Shares with the Main Action

- 71. Pursuant to Fed.R.Civ.Pro. 24(b), "[o]n timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.

 (emphasis added)
- 72. If, even in equity and within the inherent powers of the court to ensure the administration of justice an unconditional right to intervene were not found, clearly, upon the similar facts and similar defendants, a Court could not fail to find a common claim with the main action, making a grant of intervention in this case proper.

Conclusion, Certification and Verification

- 73. All the above statements are true to the best of my knowledge, and I understand that a false statement in this Verified Complaint may subject me to penalties of perjury.
- **74.** Intervenor agrees to provide the Clerk's Office with any changes to my address where case-related papers may be served.
- 75. Intervenor understands that his failure to keep a current address on file with the Clerk's Office may result in the dismissal of his case.
- **76.** Intervenor further declares under penalty of perjury that no attorney has prepared, or assisted in the preparation of this document.

WHEREFORE, Petitioner prays, for the reasons argued above, for a grant of relief in the form of intervention in the above referenced matter, and such other equitable relief as deemed proper by the Court.

MCC	
Major Mike Webb	
955 S. Columbus Street, #426	
Arlington, Virginia 22204	
Phone: (856) 220-1354	
Email: GiveFaithATry@gmail.com	
Executed on: 4-78-77	(Date)
Subscribed, acknowledged and sworn to before	me, the undersigned Notary Public in the
County of Arlington	, in the Commonwealth of Virginia, this
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My commission expires: $\frac{0030}{2025}$

NOTARY PUBLIC

_Registration Number:

EXHIBITS

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2LT Webb has accomplished his mission in an outstanding manner. He was given full responsibility for executing all the administrative requirements for the 902D MI Group's organizational inspection program and has ensured that all inspection schedules are thoroughly coordinated and deconflicted from all other activities and inspection results are accurately compiled. As the linchpin to the efficiency and effectiveness of the Command Group, his demeanor and ability to anticipate requirements were essential in optimizing the commander's time and expediting staff actions. He has been totally reliable in all aspects of his job and has willingly put in an inordinate amount of hours to ensure that every detail of an action is taken care of. 2LT Webb's ability to establish immediate rapport with senior personnel and agencies has significantly improved the professional image of the Group. A solid effort by an exceptional officer.
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Outstanding potential; he has the intelligence and determination to make things happen. He should be assigned as a battalion S-2 and company XO in preparation for command. Promote immediately and select for the MI Advanced Course.
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Operations Officer for the 902d Milit managing current operations for a Cothroughout CONUS. Responsible for Coordinates Group operations with It execution by task organizing Group a weekly operational updates to the Grof approximately 350 annually.	unterintelliger the Oversight SCOM and consists and consists and more	nce G it and other	roup co Group MACOI	mpri level M op	sed of mana eration	four geme ns of	batta nt of fices.	dions and all Red Coord	nd 42 I Tean linates	detach: is. missia es and	ments on oresents
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2. Demonstrates appropriate knowledge and expertise i			9. Seeks s								
Maintains appropriate level of physical fluxes Motivates, challenges and develops subordinates	PASS_9610		10. Is adap 11. Sets an						*****		
5. Performs under physical and mental stress			12. Possess					ince	69/17	2 YES	1
6. Encourages candor and frankness in subordinates			13. Suppor			······································				***************************************	1
7. Clear and concise in written communication		لتا	14. Clear a		ise in or	al com	nunicatí	on			
b. PAOFESSIONAL ETHICS (Comment in any area where the resed off	eer is particularly named	ing or near	is improvement								
t. DEPICATION 2.5 Maintains b	er and speaker earing and eff by dedicated to ess performan	iciene o mis	sìon šo	te pre Idiors	essure , and	s. unit.					(A)

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preparation, and execution o	a multi-battalion 36-hour MOUT FTX. He developed and	ne development,
that focused on the Basic Co	nbat Training (BCT) skills that drill sergeants must have to	retilied an overall plan
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encurred that A A D'e mara on	to have cadets act as OPFOR and then participate in leader	ship roles. CPT Webb
also facilitated the execution	ducted at the conclusion of each activity to gather immedia	ite feedback. CPT Webb
aumerous mobilization docu-	of a MOBEX that integrated legal and medical support resu nents, conduct of over 50 dental exams, a variety of require	ilting in the generation o
and a significant number of t	amily members receiving ID cards. Laudably, CPT Webb i	ed immunizations given,
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Exhibit E



955 S Columbus Street, #426 Arlington, Virginia 22204 (802) 468-7589 GiveFaithATry@qmail.com

March 23, 2020

Dionne Hardy White House FOIA Officer The White House 725 17th Street NW, Suite 9204 Washington, DC 20503 Dennis C. Barghaan, Jr. U.S. Attorney Eastern District of Virginia Alexandria Division 2100 Jamieson Avenue Alexandria, VA 22314

RE: Request for Information Regarding Classification of a Novel Coronavirus

Dear Ms. Hardy:

Pursuant to the *Freedom of Information Act*, 5 U.S.C. § 552, we are presenting this request for release of documents pertaining to the classification of COVID-19, an infectious pathogen, for which, that, 607,234, 476,123 laboratory confirmed, 25,948 hospitalizations, 24,631 laboratory confirmed, and 10,137 fatalities, 8,497 laboratory confirmed in the Commonwealth of Virginia, CITE, where the nation's only physician serving as a state governor, CITE, has evaded the Sheriff for the City of Alexandria since April 2, 2020, *Webb v. Northam, et al.*, Case Number CL20001624 (Alexandria Cir. 2020), in contempt of court, Va. Code § 18.2-456(B); Va. Code § 16.1-264, and has evaded the United States Marshal since June 2, 2020. *Webb v. Northam*, Civil Action No. 3:20CV497 (E.D.Va. 2020), *on appeal Webb v. Northam, et al.*, Record Number 20-1968 (Fourth Cir. 2020), in violation of 18 U.S.C. § 1512(b)(2)(C), with impunity.

Statement of the Facts

According to national public health authorities, "COVID-19 spreads mainly from person to person through respiratory droplets", and they claim that "Studies show that masks reduce the spray of droplets when worn over the nose and mouth." Staff, "Guidance for Wearing Masks," CDC, February 18, 2021, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html (accessed March 23, 2021). Moreover, as you may, or may not, be aware, "[i]n a statement, AstraZeneca said its COVID-19 vaccine had a 79% efficacy rate at preventing symptomatic COVID and was 100% effective in stopping severe disease and hospitalization." Maria Cheng & Lauran Neergaard, "AstraZeneca: US data shows vaccine effective for all ages," ABC News, March 22, 2021. But see James Crump, "Three fully vaccinated Hawaii residents test positive for Covid," Independent, March 22, 2021. Further, "[t]here was a comparable response betweenthe 100-μg and 250-μg dose groups, and both were greater compared

Exhibit F

19:06 7

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16 Messages

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16.

MBX OMB FOIA

To: Mike.Webb84@gmai... > 3/23/21

RE: [EXTERNAL] FOIA Request Re: Infectious Dose and Secondary Attack Rate

Greetings: This email acknowledges receipt of your Freedom of Information Act (FOIA) request to the Office of Management and Budget (OMB) dated and received in this office on March 23, 2021. Your appeal has been logged in and is being processed. For your









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.1 5GE

Inbox FOIA Request Re: Inf... processed. For your reference, the OMB FOIA number is 21-220.

Thank you, Dionne Hardy

From: Michael Webb

<mike.webb84@gmail.com>

Sent: Tuesday, March 23,

2021 4:32 PM

To: MBX OMB FOIA

<MBX.OMB.FOIA@OMB.eo

p.gov>; Dennis Barghaan

<dennis.barghaan@usdoj.go</pre>

<u>V</u>>

Cc: Scott McCaffrey

<smccaffrey@sungazette.net

>; Patricia Sullivan

< Patricia. Sullivan@washpost

.com>; John Gizzi

<iohna@newsmax.com>









Exhibit G



The Republic Can

00:18

To: otp.informationde... & 15 more >

Formal Complaint Under Article 15 of the Rome Statute Regarding a Novel Coronavirus

Lenten Greetings!

I have many distinctions, particularly of late, to include being named the number two internet fail politician in the world, according to Rolling Stone and Nigeria Today (deleted), sandwiched between two former Members of British Parliament, and, I have yet to hold an elective office. Such is public life, but, in a former life, I had been a special operations soldier, assigned to the elite 75th Ranger Regiment, and the former Operations Officer for all U.S. Army strategic counterintelligence, and, suffice it to say that a novel coronavirus was not necessarily entirely novel to me, generally, within the context of particular aspects cunnected that it was not

